



COMMONWEALTH OF KENTUCKY
ETHICS COMMITTEE OF THE KENTUCKY JUDICIARY
STATE CAPITOL

ROBERT W. DYCHE, III
COURT OF APPEALS

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FRANKFORT, KENTUCKY 40601-3489

PETER C. MACDONALD
DISTRICT COURT

JAMES L. BOWLING
CIRCUIT COURT

B. M. WESTBERRY, CHAIRMAN
ATTORNEY

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ATTORNEY

**JUDICIAL ETHICS OPINION JE-99
FORMAL**

February 28, 2002

FACTS

This issue is before the Committee on remand from the Supreme Court directing the Committee to issue a formal Opinion which could be reviewed by the Court. We feel a brief review of the facts is appropriate.

On October 18, 2001, a request for an Opinion was received by the Committee from a sitting Circuit Judge as to "whether I may participate in leadership activities with the American Council of Young Political Leaders." The judge in question was nominated by the Honorable Ben Chandler, Attorney General. The request went on to state "I am a registered Democrat, and would attend as such". The request also stated "there would be a press release from Washington, D.C., by the American Council of Young Political Leaders which would contain the names and party affiliations of all delegates participating in this year's program in the Philippines". Included with the request were several documents describing the activities of the Council, including the names and political affiliations of their distinguished alumni.

Inasmuch as time was a critical factor in the matter, the Committee was polled and a majority of the Committee felt that participation in this event would run contrary to the Canons. This fact was telephoned to the applicant and followed by a written informal Opinion on October 26, 2001.

Thereafter, on October 29, 2001, the applicant filed by fax a verified "Motion for Reconsideration" of its decision. In this motion, the applicant states that she had contacted the Council of Young Political Leaders and was informed they would reverse their original statement and that "not only would her party affiliation not be required to be listed in any press release by the Council but also that no names or party affiliations of other participants would need to be mentioned".

The Committee reviewed the material submitted by the applicant and could find nothing in the activities of the Council that pertained to the improvement of the law, the legal system, or the administration of justice.

Question: Would participation in an overseas activity as a young political leader by a sitting Circuit Judge violate the Code of Judicial Conduct?

Answer: Yes.

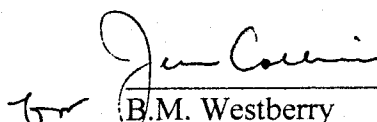
Discussion:

While attendance and participation in political activities is permitted by the Code, there is a limitation. The political activities are limited to those that improve the law, the legal system, or the administration of justice. We find nothing in the activities described in the documents submitted that would fall in this category.

While the applicant makes an appealing argument that these activities are educational enrichment activities, the Committee feels the very nature of activities described in the documents submitted gives the appearance of improper political activity contrary to the Canons.

The Committee feels the language contained in ABA Formal Ethics Opinion 113 is peculiarly appropriate in this matter:

It is generally accepted in a rational philosophy of life that with every benefit there is a corresponding burden. Accordingly, one who accepts judicial office must sacrifice some of the freedom in political matters that otherwise he might enjoy. When he accepts a judicial position, ex necessitate rei, he thereby voluntarily places certain well recognized limitations upon his activities.


B.M. Westberry
Chairman
The Ethics Committee of the
Kentucky Judiciary